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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

AHDANTE ABDOULA
HARRIS,

Defendant and Appellant.

B293093

(Los Angeles County
Super. Ct. No. SA028237)

APPEAL from a judgment of the Superior Court of
Los Angeles County, Judith Abrams, Judge. Dismissed.

Karyn H. Bucur, under appointment by the Court of
Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

BACKGROUND

In a jury trial in 1997, appellant Ahdante Abdoula Harris was convicted of robbery (count 1, Pen. Code, § 211¹) and felon in possession of a firearm (count 2, former § 12021, subd. (a)(1)). In December 1997, he was sentenced to 34 years to life, calculated as 25 years to life on count 1, plus four years under section 12022.5, subdivision (a)(1) (personal use of a firearm), plus five years under section 667, subdivision (a)(1) (prior serious felony). On count 2, he was sentenced to 25 years to life, to run concurrent to the sentence on count 1. His conviction and sentence were affirmed. (See discussion of case history in *People v. Harris* (Sept. 25, 2017, B281043) [nonpub. opn.].) The Supreme Court denied appellant’s petition for review on December 22, 1998. (*Ibid.*)

At the time appellant was sentenced, a trial court had no power to strike a firearm enhancement. (See *People v. Thomas* (1992) 4 Cal.4th 206, 213.) In October 2017, Senate Bill No. 620 (2017-2018 Reg. Sess.) (SB 620) was enacted; it became effective on January 1, 2018. (Stats. 2017, ch. 682.) SB 620 gives a trial court discretion to strike a firearm enhancement under section 12022.5. (§ 12022.5, subd. (c).)

On September 4, 2018, appellant filed a request for resentencing, citing SB 620. The trial court denied the request, noting that the judgment was “final long before January 1, 2018 when the Senate Bill went into effect.” Appellant appealed. His appointed counsel filed a brief requesting that we independently review the record for error pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We directed counsel to send the record and a

¹All further statutory references are to the Penal Code unless otherwise indicated.

copy of the brief to appellant, and notified appellant of his right to respond within 30 days. We have received no response.

DISCUSSION

We dismiss the appeal for two reasons. First, appellant is not entitled to *Wende* review. “In an indigent criminal defendant’s first appeal as a matter of right, the Court of Appeal must independently review the record if appointed counsel represents he or she has found no arguable issues.” (*Conservatorship of Ben C.* (2007) 40 Cal.4th 529, 535, citing *Anders v. California* (1967) 386 U.S. 738; *Wende, supra*, 25 Cal.3d 436.) A defendant is not entitled to such review “in subsequent appeals.” (*People v. Serrano* (2012) 211 Cal.App.4th 496, 503; see also *People v. Kisling* (2015) 239 Cal.App.4th 288, 290.) As this is an appeal from a petition for resentencing, not a first appeal as a matter of right, appellant is not entitled to *Wende* review. Because neither appellant nor his counsel has raised any claims of error, we dismiss the appeal as abandoned. (See *Serrano, supra*, 211 Cal.App.4th at pp. 503-504; *Kisling, supra*, 239 Cal.App.4th at p. 292 & fn. 3.)

Second, appellant was convicted and sentenced in 1997, and the judgment has since become final. SB 620 “does not apply to final judgments.” (*People v. Johnson* (2019) 32 Cal.App.5th 938, 941.) “[A]bsent any new authority to resentence defendant under Senate Bill No. 620, the trial court lacked jurisdiction to grant defendant’s resentencing request.” (*People v. Fuimaono* (2019) 32 Cal.App.5th 132, 135; see also *People v. Hernandez* (2019) 34 Cal.App.5th 323, 326-327.) Since the trial court lacked jurisdiction to grant the relief requested in appellant’s motion, its order denying the motion did not affect his substantial rights and is not an appealable postjudgment order. (§ 1237, subd. (b);

People v. Turrin (2009) 176 Cal.App.4th 1200, 1208; *Johnson, supra*, 32 Cal.App.5th at p. 941; *Hernandez, supra*, 34 Cal.App.5th at p. 326.) Thus, “[t]he appeal is ‘irregular’ and will be dismissed. (§ 1248.)” (*Johnson, supra*, 32 Cal.App.5th at p. 941; see also *Fuimaono, supra*, 32 Cal.App.5th at p. 135.)

DISPOSITION

The appeal is dismissed.

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COLLINS, J.

We concur:

MANELLA, P. J.

WILLHITE, J.